

## **Assembly Bill No. 1683**

### **CHAPTER 793**

An act to amend Sections 3562.2, 20057.1, 20070, 20356, 20433, 20434, 20434.5, 20481, 20515, 20580, 20588, 20686, 21024, 21027, 21054, 21259, 21298, 21317, 21318, 21319, 21322, 21325, 21326, 21327, 21328, 21547.7, 21751, 21757, 21758, 21761, 21764, 22819, 22821.1, 22857, and 31657 of, to add Sections 20890.1, 21461.5, and 22013.98 to, and to repeal Sections 20687.1, 21001, and 21002 of, the Government Code, relating to public employee benefits.

[Approved by Governor October 12, 2001. Filed  
with Secretary of State October 13, 2001.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 1683, Committee on Public Employees, Retirement and Social Security. Public employee benefits.

(1) The Public Employees' Retirement Law provides that certain benefits provisions shall be applicable to contracting agencies only if the agency's contract with the system, as originally executed or as amended, makes the provision applicable.

This bill would provide that some of those provisions shall be applicable to a contracting agency only if its contract so provided on or before December 31, 2001.

(2) Under existing law, when a local agency contracts with the Public Employees' Retirement System, members of the local agency's retirement system included in the contract become members of the Public Employees' Retirement System and payments being made to retirees, survivors, and beneficiaries of the local system on the effective date of the contract are continued and paid by the Public Employees' Retirement System at the existing rates, unless the contract or a subsequent amendment thereto otherwise provides, as specified.

This bill would revise that provision to provide that payments being made to retirees, survivors, and beneficiaries of the local system on the effective date of the contract be continued and paid, as specified, unless the contract or a subsequent amendment thereto otherwise provides as to persons retired under the local system, as specified.

(3) Existing law authorizes members of the Public Employees' Retirement System employed by a contracting agency to withdraw their contributions to the system upon the termination of the agency's contract with the system.

This bill would make that authorization applicable to those members only if they are not employed in a position subject to coverage by the system at the time of the election to withdraw.

(4) Existing law establishes the local sheriff and the local firefighter membership classifications within the Public Employees' Retirement System. Members subject to the local sheriff classification were formerly classified as county peace officers.

This bill would specify conditions for the conversion of county peace officer service to local sheriff service and would make technical changes with respect to the local firefighter classification.

(5) Under the Public Employees' Retirement Law, contracting agencies may authorize their members to elect to receive service credit for time during which the member served in the military, provided, among other things, that service was continuous, and time during which the member was on war relocation leave.

This bill would eliminate the requirement that the military service be continuous and would repeal the provision relating to war relocation leave.

(6) The Public Employees' Retirement Law provides that the monthly allowance paid to, among others, a local member who retired prior to January 1, 2000, may be increased, at the election of the contracting agency, according to a specified schedule.

This bill would provide that those increases shall be made notwithstanding the purchase power protection increase that is also provided under existing law for those retirees.

(7) Existing law authorizes a member of the Public Employees' Retirement System to elect, upon service retirement, to have the actuarial equivalent of his or her unmodified service retirement allowance paid as a temporary annuity and life income, as specified.

This bill would establish an alternative temporary annuity election that would be available to persons who first became members of the system on or after January 1, 2002.

(8) Existing law establishes a replacement benefits program for members of the Public Employees' Retirement System.

This bill would designate that program as a benefits replacement plan and would clarify that the plan is applicable to school employers and members of the system.

(9) The Public Employees' Retirement Law and Public Employees' Medical and Hospital Care Act prescribe retirement, death, and health benefits for specified public employees and their survivors.

This bill would make technical and clarifying changes to provisions of that law and act.



(10) Existing law prescribes procedures to transfer membership from the Public Employees' Retirement System to a county retirement system subject to the County Retirement Law of 1937 for certain public safety members who were employed by a contracting agency and who are subsequently employed by a county, fire authority, or district within any of 2 or 3 specified counties as a result of the transfer of firefighting or law enforcement functions, as specified.

This bill would clarify that those procedures are also applicable to those public safety members who were employed by the state and who are subsequently employed by a county, fire authority, or district within all 3 counties as a result of such a transfer. The bill would also make related technical changes.

(11) Under existing law, the Board of Administration of the Public Employee's Retirement System administers an agreement with the federal Department of Health and Human Services for the social security coverage of employees of the state and various public agencies that contract for coverage. The existing law excludes from that coverage agreement policemen and firemen, as defined.

This bill would expand the definition of "fireman" for those purposes to include certain employees of the City of Long Beach who perform life saving and peace keeping duties, as specified.

(12) Existing law, the Public Employees' Medical and Hospital Care Act, provides that an annuitant, as defined, who meets specified criteria and who was enrolled in a specified health benefits plan at the time of becoming an annuitant may continue his or her enrollment, as specified. The act also authorizes contracting agencies to allow eligible family members of a deceased employee of the contracting agency to enroll in a specified health benefits plan following the employee's death, as specified.

This bill would specify that this authorization is applicable to eligible family members who are not enrolled on the employee's date of death.

*The people of the State of California do enact as follows:*

SECTION 1. Section 3562.2 of the Government Code is amended to read:

3562.2. Notwithstanding subdivision (r) of Section 3562, for purposes of the California State University only, "scope of representation" also means any retirement benefits available to a state member under Part 3 (commencing with Section 20000) of Title 2.

SEC. 2. Section 20057.1 of the Government Code is amended to read:



20057.1. To qualify as a “public agency” within the meaning of this part, any organization that qualifies under amendments to the definitions of “public agency” effective on or after January 1, 2002, shall also obtain a written advisory opinion from the United States Department of Labor stating that the organization is an agency or instrumentality of the state or a political subdivision thereof within the meaning of Sections 1001 et seq. of Title 29 of the United States Code.

SEC. 3. Section 20070 of the Government Code is amended to read:

20070. “1959 survivor allowance” means the allowance provided for in Sections 21571, 21572, 21573, 21574, 21574.5, and 21574.7.

SEC. 4. Section 20356 of the Government Code is amended to read:

20356. Whenever in this part the rights of a local member, because of membership in another retirement system, are conditioned upon employment within six months of termination of membership in this system or another retirement system, the period shall be one year rather than six months if the local member was an elective officer and becomes a member of another retirement system upon commencement of service in another elective office on and after January 1, 1977.

This section shall not apply unless the other employer in a reciprocal system elected a similar provision, nor shall it apply to any contracting agency nor to the employees of any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

SEC. 5. Section 20433 of the Government Code is amended to read:

20433. “Local firefighter” means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting, or active firefighting and prevention service, active firefighting and fire training, active firefighting and hazardous materials, active firefighting and fire or arson investigation, or active firefighting and emergency medical services, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, or active firefighting and prevention service, active firefighting and fire training, active firefighting and hazardous materials, active firefighting and fire or arson investigation, or active firefighting and emergency medical services, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned.

SEC. 6. Section 20434 of the Government Code is amended to read:

20434. “Local firefighter” also means any officer or employee of a fire department of a contracting agency, except one whose principal



duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation service, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation service, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned.

This section shall not apply to the employees of any contracting agency nor to any contracting agency until the agency elects to be subject to this section by amendment to its contract with the board, made pursuant to Section 20474 or by express provision in its contract with the board.

SEC. 7. Section 20434.5 of the Government Code is amended to read:

20434.5. “Local firefighter” also means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of hazardous materials services, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of hazardous materials services, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned.

This section shall not apply to the employees of any contracting agency nor to any contracting agency unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board, made pursuant to Section 20474 or by express provision in its contract with the board.

SEC. 8. Section 20481 of the Government Code is amended to read:

20481. All members of a local system included by contract in this system thereupon become subject to this part and cease to be members of the local system. Payments being made to persons who have retired or their survivors or beneficiaries under the local system on the effective date of the contract, or any subsequent amendment thereto, shall be continued and paid by this system at the rates existing on that date under the local system unless the agency elects in its contract or by amendment thereto to provide a recalculation of retirement allowances for persons retired under the local system on the basis of the provisions of the contract. The liability for those payments shall be included in the computation of the prior service liability of the contracting agency. All



members of the local system who are members under provisions continuing membership after termination of service shall be deemed members of this system under Section 20731 with credit in this system for all of the service with regard to which membership was continued under the local system.

SEC. 9. Section 20515 of the Government Code is amended to read:

20515. (a) A contracting agency that has included this section in its contract with the board, by express provision or by amendment, on or before December 31, 2001, may provide that, notwithstanding any other provision of this part, service that was in fact also covered under the federal system shall not be deemed as service that was also covered under the federal system, for all purposes of this part, except for the benefits provided by Article 3 (commencing with Section 21570) of Chapter 14. The amendment shall only be applicable to persons who are employed on and after the effective date of the amendment.

(b) The amendment made to this section by Chapter 636 of the Statutes of 1994 shall apply only to a contracting agency that includes this section in its contract on and after January 1, 1995, and on or before December 31, 2001.

SEC. 10. Section 20580 of the Government Code is amended to read:

20580. Upon the termination of a contract, all memberships in this system existing because of that contract continue in existence to the extent that there are accumulated contributions to the credit of each local member, but any member may elect to withdraw his or her accumulated contributions if the member is not employed in a position subject to coverage by the system at the time of election. The status of any member who does not withdraw his or her accumulated contributions shall be the same as if the public agency had continued as a contracting agency. The membership of any member who is eligible and who elects to withdraw his or her accumulated contributions shall be terminated forthwith, and he or she shall not be entitled to any further benefit based upon service credited as an employee of the contracting agency, nor shall he or she have the right to redeposit those withdrawn contributions upon again becoming a member of this system. The portion of the contributions of the contracting agency held under Section 20576 to the credit of each member shall be determined by the board, and may be adjusted from time to time prior to termination of membership. A member whose membership continues under this section is subject to the same age and incapacity requirements as apply to other members for service or for disability retirement, but he or she is not subject to a minimum service requirement. Except as provided in Section 20578, he or she shall receive the retirement benefits as his or her accumulated contributions,



together with the portion of the excess of the contributions of the contracting agency as are credited to him or her, shall provide, as determined by the board, but the provisions of this part relative to minimum retirement allowances shall not apply to him or her, nor shall those benefits exceed the benefits provided by the contract prior to its termination. Upon the death of a member, the basic death benefit shall be his or her accumulated contributions.

SEC. 11. Section 20588 of the Government Code is amended to read:

20588. Notwithstanding any other provision of this article, the board may, pursuant to this section and Section 31657, enter into an agreement with the board of retirement of a county maintaining a county retirement system, for termination of participation of a public agency whose contract has been in effect for at least five years in this system or the state with respect to certain safety members who have ceased to be employed by the public agency or the state and have been employed by a county, fire authority, or district as a result of a transfer of firefighting or law enforcement functions from the public agency or the state to the county, fire authority, or district and inclusion of the former public agency employees in that county retirement system. The agreement shall contain provisions the board finds necessary to protect the interests of this system for determination of the amount, time, manner of transfer of cash or the securities, or both, to be transferred to the county system as representing the actuarial value of the interests in the retirement fund of the public agency or the state and the transferred employees by reason of accumulated contributions credited to that public agency or the state and the employees transferred. The agreement shall apply only to employees who are employed by the county or district on the effective date of the agreement. All liability of this system with respect to the members transferred under that agreement shall cease and shall become the liability of the county retirement system as of the date of transfer specified in the agreement. Liability of the county retirement system shall be for payment of benefits to transferred employees in accordance with Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3. Any member transferred who becomes a member of a county retirement system upon that transfer date shall be subject to provisions of this part and of Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 extending rights to a member or subjecting him or her to limitations because of membership in another retirement system to the same extent that he or she would have been had he or she been a member of the county retirement system during his or her membership in this system.



This section shall apply only in Kern, Los Angeles, and Orange Counties.

SEC. 12. Section 20686 of the Government Code is amended to read:

20686. For each state safety member defined in Section 20401 and whose current and prior service pensions shall be computed pursuant to Section 21373, the normal rate of contribution shall be 8 percent and shall be made only on the compensation in excess of two hundred thirty-eight dollars (\$238) per month. The Legislature reserves the right to increase the rate of contribution as it may find appropriate from time to time. No adjustment shall be included in rates adopted under this section as the result of amendments hereto, changing the time at which members may retire or the benefits members shall receive, because of time during which members have contributed at different rates prior to that adoption.

SEC. 13. Section 20687.1 of the Government Code is repealed.

SEC. 14. Section 20890.1 is added to the Government Code, to read:

20890.1. Past county peace officer service shall be converted to local sheriff service if all of the following apply to the past service:

(a) It was rendered in a position that has subsequently been reclassified as a local sheriff position according to the provisions of Section 20432.

(b) It was rendered by a current employee of the same agency for which the county peace officer service was performed.

(c) It is credited to an employee who has other local sheriff service credit for service performed with the agency.

SEC. 15. Section 21001 of the Government Code is repealed.

SEC. 16. Section 21002 of the Government Code is repealed.

SEC. 17. Section 21024 of the Government Code is amended to read:

21024. (a) "Public service" with respect to a local member, other than a school member, also means active service with the Armed Forces or the Merchant Marine of the United States, including time during any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes, and for six months thereafter prior to the member's first employment by the employer under this section in which he or she was a member.

(b) Any member electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this

article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) The public service under this section shall not include military service (1) in any period for which credit is otherwise given under this article or Article 4 (commencing with Section 20990) or (2) to the extent that total credit under this section would exceed four years.

(d) Notwithstanding Section 21034, a member may select which of two or more periods of service entitles him or her to receive public service under this section.

(e) This section shall apply to a member only if he or she elects to receive credit while he or she is in state service in the employment of one employer on or after the date of the employer's election to be subject to this section.

(f) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or in the case of contracts made after this section takes effect, by express provision in the contract making the contracting agency subject to this section. The amendments to this section made during the second year of the 1999–2000 Regular Session shall apply to contracts subject to this section on January 1, 2001.

SEC. 18. Section 21027 of the Government Code is amended to read:

21027. (a) “Public service” with respect to a local member who retired pursuant to this part before the effective date of the election of his or her employer to be subject to Section 21024 also means active service with the Armed Forces or the Merchant Marine of the United States, including time during any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes, and for six months thereafter prior to the person's first employment by the employer under this section in which he or she was a member.

(b) Any retired person electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) The public service shall not include military service (1) in any period for which credit is otherwise given under this article or Article 4 (commencing with Section 20990) or (2) to the extent that total credit under this section would exceed four years.



(d) Notwithstanding Section 21034, a retired person may select which of two or more periods of service entitles him or her to receive public service under this section.

(e) This section shall apply to a retired person only if he or she retired immediately following service as a local member, pursuant to this part, and before the effective date of the election by his or her employer to be subject to Section 21024.

(f) The retirement allowance of a retired person who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the effective date of the election.

(g) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency has elected to be subject to Section 21024 and elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after January 1, 1988, by express provision in the contract making the contracting agency subject to both Section 21024 and this section. The amendments to this section made during the second year of the 1999–2000 Regular Session shall apply to contracts subject to this section on January 1, 2001.

SEC. 19. Section 21054 of the Government Code is amended to read:

21054. Notwithstanding any other provision of law, a member or retired member who elected to purchase military service credit under Section 21024 or 21027 on or after January 1, 1999, and prior to January 1, 2001, may, at any time prior to making the final payment for the service credit, elect to have the cost of that service credit recalculated pursuant to Section 21052. If that cost as recalculated under Section 21052 is less than the cost as originally calculated, the member or retired member shall pay the lesser amount, with credit for the payments previously made. However, no refund shall be payable to a member or retired member as a result of the recalculation of cost pursuant to this section.

SEC. 20. Section 21259 of the Government Code is amended to read:

21259. Subject to compliance with this part, after a member has qualified as to service and disability for retirement for disability, or as to age and service for retirement for service, nothing shall deprive him or her of the right to a retirement allowance as determined under this part.

SEC. 21. Section 21298 of the Government Code is amended to read:

21298. (a) A nonmember entitled to receive a retirement allowance shall receive a retirement allowance based on the service retirement formula applicable to the service credited to the nonmember.



(b) The retirement allowance shall consist of a pension and an annuity, the latter of which shall be derived from the nonmember's accumulated contributions. The nonmember's retirement allowance, based upon the service credited by the employer and the nonmember's effective date of retirement, shall be subject to all cost-of-living increases, ad hoc increases, and increases provided by Section 21337 or 21337.1.

(c) If, prior to the nonmember's retirement, there is any increase in the service retirement formula that applies to service credited to the nonmember, that increase shall apply to the applicable service credited to the nonmember, provided that the same increase also applies to the applicable service credited to the member from whose account the nonmember's service was derived.

SEC. 22. Section 21317 of the Government Code is amended to read:

21317. (a) In addition to the increase of allowance authorized by and granted pursuant to Section 21313 and notwithstanding the limitation in subdivision (b) of Section 21329, any monthly allowance computed under or limited by any section other than Section 21362, as amended by Chapter 96 of the Statutes of 1971, and paid with respect to a local safety member whose retirement for service or nonindustrial death before retirement occurred prior to the date the contracting agency elected to be subject to Section 21362 as so amended, shall be increased by 15 percent. The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be increased by the same percentage for annual adjustments beginning with the adjustment effective for time commencing with that annual adjustment.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under the system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost and (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the contracting agency's contract.



(d) This section shall not apply to any contracting agency nor to the employees of any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

SEC. 23. Section 21318 of the Government Code is amended to read:

21318. (a) In addition to the increase of allowance authorized by and granted pursuant to Section 21313 and notwithstanding the limitation in subdivision (b) of Section 21329, any monthly allowance computed under or limited by any section other than Section 21362, as amended by Chapter 96 of the Statutes of 1971, and paid with respect to a local safety member whose retirement for service or nonindustrial death before retirement occurred, or who was granted an industrial or nonindustrial disability retirement, prior to the date the contracting agency elected to be subject to Section 21362 as so amended, shall be increased by 15 percent. The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be increased by the same percentage for annual adjustments beginning with the adjustment effective for time commencing with that annual adjustment.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under this system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost and (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the contracting agency's contract.

(d) This section shall not apply to any contracting agency nor to the employees of any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

SEC. 24. Section 21319 of the Government Code is amended to read:

21319. (a) In addition to the increase of allowance authorized by and granted pursuant to Section 21313 and notwithstanding the



limitation in subdivision (b) of Section 21329, any monthly allowance computed under or limited by a retirement formula applicable to local miscellaneous members who retired prior to July 1, 1971, or to local miscellaneous members who so retired and then were reinstated from retirement and retired again after July 1, 1971, and whose allowance is based upon such a formula and paid with respect to a local miscellaneous member whose retirement or whose initial retirement or death before retirement occurred prior to July 1, 1971, shall be increased by 15 percent. The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of the application. The base allowance shall be increased by the same percentage for annual adjustments beginning with the adjustment effective for time commencing with that annual adjustment.

(b) This section shall apply only to the portion of the allowance that is based on service in employment with the employer electing to be subject to this section.

(c) This section shall not apply to any contracting agency nor to the employees of any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

SEC. 25. Section 21322 of the Government Code is amended to read:

21322. Section 21320 shall apply to any contracting agency that has included the provisions of that section in its contract with the board on or before December 31, 2001.

SEC. 26. Section 21325 of the Government Code is amended to read:

21325. (a) In addition to the increase in allowance authorized by and granted pursuant to the provisions of Section 21313, and notwithstanding the limitation on those increases imposed by this article, the monthly allowance paid with respect to a local member, other than a school member, who retired or died prior to January 1, 1974, shall be increased by the percentage set forth opposite the period in the following table during which retirement became effective or death occurred:

| Period during which retirement<br>or death occurred: | Percentage: |
|--|-------------|
| On or before December 31, 1965 . . . . .             | 15%         |
| 12 months ending December 31, 1966 . . . . .         | 14%         |
| 12 months ending December 31, 1967 . . . . .         | 13%         |



|  |     |
|--|-----|
| 12 months ending December 31, 1968 ..... | 12% |
| 12 months ending December 31, 1969 ..... | 9%  |
| 12 months ending December 31, 1970 ..... | 6%  |
| 12 months ending December 31, 1971 ..... | 5%  |
| 12 months ending December 31, 1972 ..... | 4%  |
| 12 months ending December 31, 1973 ..... | 3%  |

(b) The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year.

(c) This section shall not apply to any contracting agency unless that agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

SEC. 27. Section 21326 of the Government Code is amended to read:

21326. (a) In addition to the increase in allowance authorized by and granted pursuant to the provisions of Section 21313, and notwithstanding the limitation on those increases imposed by this article, the monthly allowance paid with respect to a local member, other than a school member, who retired or died prior to July 1, 1974, shall be increased by the percentage set forth opposite the period in the following table during which retirement became effective or death occurred:

| Period during which retirement<br>or death occurred: | Percentage: |
|--|-------------|
| On or before December 31, 1965 .....                 | 7%          |
| 12 months ending December 31, 1966 .....             | 6%          |
| 12 months ending December 31, 1967 .....             | 5%          |
| 12 months ending December 31, 1968 .....             | 4%          |
| 12 months ending December 31, 1969 .....             | 3%          |
| 18 months ending June 30, 1971 .....                 | 2%          |
| 36 months ending June 30, 1974 .....                 | 1%          |

(b) The percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency, and the

allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year.

(c) This section shall not apply to any contracting agency unless the agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

SEC. 28. Section 21327 of the Government Code is amended to read:

21327. In addition to the increase in allowance authorized and granted pursuant to provisions of Section 21313, and notwithstanding the limitation on those increases imposed by this article, effective January 1, 1980, or the date this section becomes applicable to the contracting agency, the monthly allowance paid with respect to a state or local member, other than a school member, who retired or died prior to January 1, 1975, shall be increased by the percentage set forth opposite the year of retirement or death in the following schedule:

| Period During Which Retirement<br>or Death Occurred | Percentage |
|---|------------|
| 12 months ending Dec. 31, 1967 .....                | 1.51       |
| 12 months ending Dec. 31, 1968 .....                | 1.26       |
| 12 months ending Dec. 31, 1969 .....                | 1.86       |
| 12 months ending Dec. 31, 1970 .....                | 2.55       |
| 6 months ending June 30, 1971 .....                 | 1.91       |
| 6 months ending Dec. 31, 1971 .....                 | 7.05       |
| 12 months ending Dec. 31, 1972 .....                | 6.76       |
| 12 months ending Dec. 31, 1973 .....                | 4.45       |
| 6 months ending June 30, 1974 .....                 | 0.47       |
| 6 months ending Dec. 31, 1974 .....                 | 1.31       |

The percentage shall be applied to the allowance payable on January 1, 1980, or the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after the date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding



the year of increase if the increase date is after April 1st of any calendar year, and the second calendar year preceding the year of increase if the increase date is on or before April 1st of any calendar year.

This section shall not apply to any contracting agency unless the agency elected to be subject to the provisions of this section in its contract with the board on or before December 31, 2001.

SEC. 29. Section 21328 of the Government Code is amended to read:

21328. (a) In addition to the increase in allowance authorized and granted pursuant to Section 21313, and notwithstanding the limitation on that increase imposed by this article and subdivision (b) of Section 21337 or subdivision (a) of Section 21337.1, effective January 1, 2000, or the date this section becomes applicable to the contracting agency, the monthly allowance paid with respect to a state, local, or school member who retired or died prior to January 1, 2000, or the date this section becomes applicable to the contracting agency, other than an allowance provided by Article 3 (commencing with Section 21570) of Chapter 14, shall be increased by the percentage set forth opposite the year of retirement or death in the following schedule:

| Period during which retirement<br>or death occurred: | Percentage: |
|--|-------------|
| 24 months ending Dec. 31, 1999                       | 0.0%        |
| 12 months ending Dec. 31, 1997                       | 1.0%        |
| 24 months ending Dec. 31, 1996                       | 2.0%        |
| 60 months ending Dec. 31, 1994                       | 3.0%        |
| 60 months ending Dec. 31, 1989                       | 4.0%        |
| 120 months ending Dec. 31, 1984                      | 5.0%        |
| 12 months ending Dec. 31, 1974<br>or earlier         | 6.0%        |

The percentage shall be applied to the allowance payable on January 1, 2000, or the date this section becomes applicable to the contracting agency, and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of application. The base allowance shall be the allowance as increased under this section. Notwithstanding Section 21337 or 21337.1 to the contrary, this increase shall not be included in determining the initial monthly allowance upon which a supplemental benefit is payable pursuant to Section 21337 or 21337.1.

(b) This section shall not apply to any contracting agency unless and until the agency elects to be subject to its provisions by amendment to

its contract, made in the manner prescribed for approval of contracts, or, in the case of contracts made after the effective date of this section, by an express provision in the contract making the contracting agency subject to the provisions of this section.

SEC. 30. Section 21461.5 is added to the Government Code, to read:

21461.5. (a) Notwithstanding Section 21461, a member retiring for service who became a member of the system on or after January 1, 2002, and who is covered under the federal system but is not yet receiving a retirement or disability benefit under that system, may elect to have the actuarial equivalent of his or her unmodified service retirement allowance paid in two parts as follows:

(1) A temporary annuity that shall not exceed the primary social security benefit that is anticipated the member shall be entitled to receive at social security retirement age, which age shall be designated by the member.

(2) A life income consisting of the member's service retirement annuity plus the pension provided by the actuarial value of the member's current and prior service pensions remaining after providing the temporary annuity in paragraph (1).

(b) The temporary annuity under paragraph (1) of subdivision (a) shall not be subject to further optional settlement under this article and shall be payable monthly as an addition to the member's monthly life income beginning on the member's effective date of retirement and continuing until the retired member attains the age designated by the member under subdivision (a). If the member dies prior to the designated age, the commuted value of any installments payable for the period remaining until the member would have attained that age shall be paid to the member's designated beneficiary in a lump sum.

SEC. 31. Section 21547.7 of the Government Code is amended to read:

21547.7. (a) Notwithstanding any other provision of this article requiring attainment of the minimum age for voluntary service retirement applicable to him or her in his or her last employment preceding death, upon the death of a local firefighter member while in the employ of an agency subject to this section on or after January 1, 2001, who is credited with 20 years or more of state service, the surviving spouse, or eligible children, if there is no eligible spouse, may receive a monthly allowance in lieu of the basic death benefit. The board shall notify the eligible survivor, as defined in Section 21546, of this alternate death benefit. The board shall calculate the monthly allowance that shall be payable as follows:

(1) To the member's surviving spouse, an amount equal to the amount the member would have received if he or she had retired for service at



the minimum retirement age on the date of death and had elected optional settlement 2 and Section 21459. The retirement allowance shall be calculated using all service earned by the member in this system.

(2) If the member made a specific beneficiary designation under Section 21490, the monthly allowance shall be based only on that portion of the amount the member would have received described in paragraph (1) that would have been derived from the nonmember spouse's community property interest in the member's contributions and service credit.

(3) If there is no surviving spouse or the spouse dies before all of the children of the deceased member attain the age of 18 years, to the surviving children, under the age of 18 years, collectively, an amount equal to one-half of, and derived from the same source as, the unmodified allowance the member would have received if he or she had retired for service at the minimum retirement age on the date of death. No child shall receive any allowance after marrying or attaining the age of 18 years. As used in this paragraph, "surviving children" includes a posthumously born child or children of the member. The retirement allowance shall be calculated using all service earned by the member in this system.

(4) The cost of the allowance paid pursuant to this subdivision shall be paid from the assets of the employer at the member's date of death. All member contributions made by the member to this system shall be transferred to the plan assets of the employer liable for the funding of this benefit.

(b) (1) Upon the death of a local firefighter member while in the employ of an agency subject to this section on or after January 1, 2001, who is credited with 20 years or more of state service and who has attained the minimum age for voluntary service retirement applicable to him or her in his or her last employment preceding death, the surviving spouse may elect to receive a monthly allowance that is equal to the amount that member would have received if the member had been retired from service on the date of death and had elected optional settlement 2 and Section 21459 in lieu of the basic death benefit. The retirement allowance shall be calculated using all service earned by the member in this system.

(2) If the member made a specific beneficiary designation under Section 21490, the monthly allowance shall be based only on that portion of the amount the member would have received described in paragraph (1) that would have been derived from the nonmember spouse's community property interest in the member's contributions and service credit.



(3) If there is no surviving spouse or the spouse dies before all of the children of the deceased member attain the age of 18 years, the allowance shall continue to the surviving children, under the age of 18 years, collectively, in an amount equal to one-half of, and derived from the same source as, the unmodified allowance the member would have received if he or she had been retired from service on the date of death. No child shall receive any allowance after marrying or attaining the age of 18 years. As used in this paragraph, “surviving children” includes a posthumously born child or children of the member. The retirement allowance will be calculated using all service earned by the member in this system.

(4) The cost of the increase in service allowance paid pursuant to this subdivision shall be paid from the assets of the employer at the member’s date of death.

(c) This section shall not apply to any contracting agency, nor to the employees of any contracting agency, unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required.

SEC. 32. Section 21751 of the Government Code is amended to read:

21751. The definitions in Part 3 (commencing with Section 20000) shall apply to this part. The following definition shall also govern the interpretation of this part:

“Participating agency” means any public agency that meets the criteria for becoming a contracting agency in this system pursuant to Chapter 5 (commencing with Section 20460) of Part 3, but that has not elected to participate in this system as a contracting agency, and that elects to contract with the board to participate in the replacement benefit plan administered pursuant to this part by the board.

SEC. 33. Section 21757 of the Government Code is amended to read:

21757. (a) If the retirement benefits of any member or his or her survivors or beneficiaries payable pursuant to Part 3 (commencing with Section 20000) would be limited by Section 415 of Title 26 of the United States Code, the board shall adjust the payment of those benefits, including, but not limited to, cost-of-living adjustments, cost-of-living banks, temporary annuities, survivor continuance benefits, or any combinations thereof, in order to maximize benefits within the limits of Section 415.

(b) The board shall establish a plan of replacement benefits for members and any survivors or beneficiaries whose retirement benefits are limited by Section 415 and cannot be fully maximized pursuant to



Part 3 (commencing with Section 20000). The benefits provided by that plan may consist of deferred compensation, cash payments, health benefits, or supplemental disability benefits, as shall be determined by the board to give effect to the purpose of this part. The factors the board may take into consideration in making its determination shall include, but not be limited to, the following: legal constraints, administrative feasibility, and cost effectiveness. The board may periodically modify the replacement benefits plan and may add or eliminate any type of replacement benefits, as necessary, to carry out the purpose of this part. The administrative costs of the replacement benefits plan shall be satisfied out of funds credited to the accounts of the participant members, and shall not be paid from the retirement fund or the retirement trust fund of a participating agency.

(c) The application of Section 415 to benefits provided under Part 3 (commencing with Section 20000) and this part shall not be taken into account for purposes of determining employers' or employees' contribution rates, until replacement benefits are implemented pursuant to Section 21758.

(d) Under no circumstances shall the replacement benefit plan result in increased benefit costs to an employer, member, or annuitant.

SEC. 34. Section 21758 of the Government Code is amended to read:

21758. (a) There is in the State Treasury a Replacement Benefit Custodial Fund, that shall be administered exclusively by the board, that is separate and apart from the retirement fund or any other retirement trust fund and that is, notwithstanding Section 13340, continuously appropriated, without regard to fiscal years, to the board to carry out the purposes of this part.

(b) The earnings on the assets of the Replacement Benefit Custodial Fund are continuously appropriated to the board for expenditure solely to pay the costs of administering this part.

(c) The Replacement Benefit Custodial Fund shall also consist of employer contributions, in amounts equivalent to the benefits that are not paid from either the retirement fund or the retirement trust fund of a participating agency to annuitants because of the application of the payment limitations under Section 415 of Title 26 of the United States Code; and administrative costs assessed to and paid by members enrolled in the replacement benefit plan.

(d) The board shall determine the amount of employer contributions required for deposit into the Replacement Benefit Custodial Fund, based on all of the following:



(1) The amount of benefits that will not be payable from the retirement fund, or the retirement trust fund of a participating agency, because of the payment limitations in Section 415.

(2) The amount by which an employer's contributions to the retirement fund, or the retirement fund of a participating agency shall be reduced, for annuitants whose benefit payments are limited by Section 415.

(e) The board shall establish within the Replacement Benefit Custodial Fund an individual account for each annuitant whose benefit payments are limited by Section 415. Employer contributions shall be credited to each account as of the date accrued and payable to the account of each annuitant as of the date on which the contribution is made. Replacement benefits shall be debited from each account as of the date paid to each annuitant.

(f) If all sections of this part, except Section 21763 and this section, become inoperative, pursuant to Section 21763, and all acts required and authorized by Section 21763 have been fully performed, any remaining balance in a member's individual account in the Replacement Benefit Custodial Fund shall revert to, and become part of, the trust fund of the retirement system from which the member retired.

SEC. 35. Section 21761 of the Government Code is amended to read:

21761. The state, school employers, as defined in Section 20063, and all contracting agencies under this system shall be deemed to have elected to contract with the board for administration of the replacement benefit plan pursuant to this part. A participating agency may contract with the board for administration to participate in the replacement benefit plan administered by the board, as follows:

(a) A participating agency shall deposit its replacement benefit contributions into the Replacement Benefit Custodial Fund, as the board directs.

(b) At the request of the board, the participating agency shall furnish any data concerning its members the board requires to direct the payment of replacement benefit contributions.

(c) A public agency that intends to contract under this section and become a participating agency shall do so only pursuant to the procedure set forth in Sections 20469 to 20471, inclusive.

(d) The ordinance or resolution by which a public agency approves a contract under this section shall be filed with the board. A participating agency under this section shall not maintain any other replacement benefit plan, except upon the express approval of the board.

(e) A contract entered into under this section may be amended pursuant to the procedure set forth in Section 20472.



SEC. 36. Section 21764 of the Government Code is amended to read:

21764. It is the sole intent of the Legislature, in enacting this part, to fully comply with the provisions of the Internal Revenue Code that apply to public retirement systems in order to maintain and ensure the federal income tax exempt status of the Public Employees' Retirement System, to elect the "grandfather" option in Section 415(b)(10) of Title 26 of the United States Code, and to provide, to the extent deemed reasonable, commensurate replacement benefits to affected members of this system and of other participating agencies that elect to contract with this system for the administration of a replacement benefits plan.

The Legislature finds and declares that all costs of local public agencies and local public retirement systems of complying with Section 415 of Title 26 of the United States Code are a federal mandate within the meaning of Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2, as construed in *City of Sacramento v. State of California* (50 Cal. 3d 51).

It is the intent of the Legislature, in enacting this part, to not impose upon local public agencies that are contracting agencies with this system or upon other local public agencies that elect to contract with this system for the administration of a replacement benefits plan, state-reimbursable, state-mandated local program benefit costs within the meaning of Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of this title.

If either the Commission on State Mandates or a court determines that this part imposes upon any local agency state-mandated local program benefit costs, notwithstanding any other provision of law, no reimbursement therefor shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of this title or from any other state fund.

SEC. 37. Section 22013.98 is added to the Government Code, to read:

22013.98. For purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)):

(a) "Fireman," as used in this part, also includes any employee of the City of Long Beach Fire Department employed in the Marine Safety Division to perform lifeguard services and whose principal duties consist of active protection, rescue, and rendition of aid or assistance to persons injured or imperiled at beaches, lakes, flood control systems, rivers, or other bodies of open water. "Fireman" also includes employees hired to perform duties under the titles of "Superintendent of Marine Safety," "Marine Safety Officer," "Marine Safety Captain," "Marine Safety Sergeant/Boat Operators," or any equivalent successor



class, of which the principal duties are customarily performed by police peace officers and include the maintenance of peace and order and the apprehension of law violators, and whose other duties are customarily performed by firemen, such as resuscitation work involving the use of special equipment.

(b) “Fireman” as used in this part, excludes persons employed on a seasonal basis or persons who perform clerical, maintenance activities, and others whose primary duties do not include active life guarding or life saving services as described in subdivision (a), even if those persons are occasionally called upon to perform life guarding or life saving services.

SEC. 38. Section 22819 of the Government Code is amended to read:

22819. Employees, annuitants, and their family members who become eligible on or after January 1, 1985, for Part A and Part B of Medicare shall not be enrolled in a basic health benefits plan. If the employee, annuitant, or their family member is enrolled in Part A and Part B of Medicare, he or she may enroll in a supplement to Medicare plan. This section shall not apply to employees and family members which are specifically excluded from enrollment in a supplement to Medicare plan by federal law or regulation.

SEC. 39. Section 22821.1 of the Government Code is amended to read:

22821.1. All family members of a deceased employee of a contracting agency who are eligible, but not enrolled, for coverage hereunder on the date of the employee’s death shall be deemed to be annuitants under subdivision (e) of Section 22754 for the purpose of enrollment, pursuant to Section 22810, and continuing their enrollment hereunder.

With respect to those eligible family members who enroll, a contracting agency shall remit the amounts required under subdivision (2) of Section 22826 and Section 22831 as well as the total amount of premium required from employer and enrollees hereunder in accordance with regulations of the board. Enrollment of those annuitants shall be continuous as of the effective date of their enrollment specified in Section 22810 so long as they meet the eligibility requirements of subdivision (f) of Section 22754 and regulations pertinent thereto. Failure to timely pay the required premiums and costs shall terminate coverage without recourse to reenrollment, and the cancellation of coverage by an annuitant will be final without option to reenroll. The contracting agency may elect to require the family members to pay all or any part of the employer premium for the enrollment.



This section shall apply to a contracting agency only upon the filing with the board of a resolution of its governing board electing to be subject to this section.

SEC. 40. Section 22857 of the Government Code is amended to read:

22857. A contracting agency including a school district, county board of education, personnel commission of a school district, or a county superintendent of schools that has elected to be subject to this part:

(a) Shall by resolution establish the employer contribution for employees and the employer contribution for annuitants. The resolution shall be filed with the board and the contribution shall be effective at the time that is provided in board regulations.

(b) May, notwithstanding Section 22825, establish a lesser monthly employer contribution for annuitants than for employees, provided that the monthly contribution for annuitants shall be annually increased by an amount not less than 5 percent of the monthly employer contribution for employees, until the time that the employer contribution for annuitants equals the employer contribution paid for employees.

This subdivision shall only apply to agencies who first become subject to this part on or after January 1, 1986.

SEC. 41. Section 31657 of the Government Code is amended to read:

31657. Subject to Section 20588, whenever, as a result of the assumption by a county, fire authority, or district of firefighting or law enforcement functions performed by a public agency or the state subject to the Public Employees' Retirement Law, any person ceases to be employed by a public agency or the state and is employed by a county, fire authority, or district in which this chapter has become operative, that person shall become a member of the retirement system of a county immediately upon entering county service. That member of the county retirement system shall be entitled to service credit in the county retirement system for the service for which he or she was entitled to credit in the Public Employees' Retirement System at the time of cessation of employment by the public agency or the state, without necessity of payment of any additional contributions in respect to that service, when and if all of the following occur:

(a) The board of retirement receives certification from the Board of Administration of the Public Employees' Retirement System of the service with which the person was entitled to be credited by the Public Employees' Retirement System at the time of cessation of his or her public agency or state employment.



(b) There is paid into the county retirement fund of the county, an amount equal to the normal contributions of the person to the Public Employees' Retirement System, together with all interest credited thereto, which amount shall be credited to the individual account of the member in the county retirement system, and shall thereafter for all purposes be deemed to be the member's contribution to the county retirement system with respect to the service so certified.

(c) There is paid to the retirement system of the county an amount equal to all contributions of the public agency or the state made to the Public Employees' Retirement System on account of service rendered by the person together with interest credited to the public agency or the state thereto.

(d) The board of retirement elects to apply this section as a prudent means of mitigating against potential adverse financial impact upon the county retirement system from the cost of disability retirements that may be applied for in the future by persons injured while being employed by the county, fire authority, or district after ceasing to be employed by a public agency or the state as a result of the assumption by a county, fire authority, or district of firefighting or law enforcement functions.

This section shall apply in a county of the first, the second, or the fourteenth class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, and Section 28023, as amended by Chapter 1204 of the Statutes of 1971.

